

But as regards bodies politic of the third class, who collect for their members private emolument from a public benefit, these and other evils and embarrassments must arise from a rigid adherence to the notion that such a corporation can only be forced to respond to a suit against it by a *distringas* and sequestration of its property. Take the case of a turnpike road company, that had refused to answer a bill in Chancery. The road itself could not be taken and closed by virtue of a *distringas* or sequestration; because that, as one of the highways of the Republic, could not, nor ought not to be obstructed by any process whatever against those whose only interest in it is the toll they are allowed to exact in consideration of keeping it in repair. Consequently, in this instance, the only method by which the Court could effectually levy upon its property, as a means of enforcing an answer, would be to appoint a sequestrator, or receiver, to take the place of the company's toll-gatherer at each gate along the whole line of the road. *Knapp v. Williams*, 4 Ves. 430, note; *Adley v. The Whitestable Company*, 17 Ves. 324; *S. C.* 1 Meriv. 108; *Ex parte Foulser*, 1 Jack. & Walk. 73, note; *Dreury v. Barnes*, 3 Cond. Cha. Rep. 311.

The injury or ruin which might be brought upon a body politic by the negligence or contumacy of its officers, as well as the great delay and embarrassment in the administration of justice, that must arise from confining the tribunal, before which it is sued, * exclusively to the use of the process of *distringas* or sequestration, as the only means of enforcing an answer, is most manifest. To prevent this injury in a case which occurred in England, in the year 1776, where the warden of a body politic refused to affix the corporate seal to its answer, the Court of Chancery, in mercy to the acquiescing parties, staid its process of contempt, by which the whole corporation at large would have been affected and punished, by a seizure of their property, until the acquiescing members of the body politic could obtain from the Court of King's Bench, a mandamus to compel the contumacious warden to affix the seal to its answer. *Rex v. Windham*, Cowp. 377.

It is one of the most valued principles of our government, and of the common law, that all men hold their situations, in this country, upon the terms of submitting to have their conduct examined and measured by that standard which the law has established; *Sutton v. Johnstone*, 1 T. R. 504; and that all trustees or fiduciaries appointed for the public good, or who are entrusted with the management of the affairs of a body politic, should be within reach of the law; and in some form or other responsible, and made to perform their duty. Upon this ground, where the justices of an inferior Court, or the officers of a corporation, fail to give judgment, or to discharge their duty, they may be compelled to do so by a *mandamus*. The superintending authority